

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 15749
[Redacted],)	
)	DECISION
Petitioners.)	
_____)	

On May 18, 2001, the staff of the Tax Discovery Bureau of the Idaho State Tax Commission issued a Notice of Deficiency Determination to [Redacted] (taxpayers), proposing income tax, penalty, and interest for the taxable year 1995 in the total amount of \$6,100.

On July 19, 2001, the taxpayers filed a timely appeal and petition for redetermination. The taxpayers did not request a hearing but did submit a return for the Tax Commission to consider. The Tax Commission, having reviewed the file, hereby issues its decision.

The Tax Discovery Bureau (Bureau) found that the taxpayers had wages reported to the Idaho Department of Labor in 1995 but that they failed to file an Idaho income tax return for 1995. The Bureau sent the taxpayers a letter asking about their 1995 return but did not receive a response from the taxpayers. [Redacted].

The Bureau sent the taxpayers a Notice of Deficiency Determination, which the taxpayers protested. The taxpayers stated they filed their 1995 return and paid the amount shown on their return. The Bureau asked the taxpayers to provide a copy of the cancelled check to substantiate their claim. The taxpayers did not provide a copy of the cancelled check; however, they did submit a copy of the return that they claimed was filed. The Bureau continued corresponding with the taxpayers to secure a 1995 return with the taxpayers' signatures. However, the taxpayers failed to present the proper documents to the Bureau and the matter was referred for administrative review.

The Tax Commission sent the taxpayers a letter setting forth two alternative methods for having the Notice of Deficiency Determination redetermined. The same day the Tax Commission's letter went out, the Bureau added to the file a letter from the taxpayers with a signed copy of the taxpayers' 1995 return. The taxpayers did not respond to the Tax Commission's letter but stated, in their letter to the Bureau, that they refiled their 1995 return because they did not have a copy of their return or a copy of the cashier's check that paid the tax.

The Tax Commission reviewed the taxpayers' return and found that it represented the taxpayers' taxable income better than the return prepared by the Bureau. Therefore, the Tax Commission accepts the taxpayers' return, subject to the normal review process, in lieu of the return the Bureau prepared.

Since the taxpayers did not provide any documentation to substantiate the payment of the tax due on their return, they have not met their burden of proof showing that the payment was made. Albertson's, Inc. v. State, Dept. of Revenue, 106 Idaho 810, 814, 683 P.2d 846, 850 (1984). The Tax Commission has no record of receiving a payment from the taxpayers for the taxable year 1995; therefore, the Tax Commission cannot credit the taxpayers for a payment.

The Bureau added interest and penalty to the taxpayers' return that it prepared. The Tax Commission reviewed those additions and found them appropriate per Idaho Code sections 63-3045 and 63-3046. Therefore, the Tax Commission added interest and penalty to the taxpayers' return.

WHEREFORE, the Notice of Deficiency Determination dated May 18, 2001, is hereby MODIFIED, in accordance with the provisions of this decision and, as so modified, is APPROVED, AFFIRMED, and MADE FINAL.

IT IS ORDERED and THIS DOES ORDER that the taxpayers pay the following tax,
penalty and interest:

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
1995	\$601	\$150	\$285	\$1,036

DEMAND for immediate payment of the foregoing amount is hereby made and given.

An explanation of the taxpayers' right to appeal this decision is included with this
decision.

DATED this ____ day of _____, 2002.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that on this ____ day of _____, 2002, a copy of the within and foregoing DECISION was served by sending the same by United States mail, postage prepaid, in an envelope addressed to:

[REDACTED] Receipt No. [Redacted]
[Redacted] [REDACTED]

ADMINISTRATIVE ASSISTANT 1